

EXHIBIT 4

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
Akron Division**

DRIPS HOLDINGS, LLC,

Petitioner,

v.

QUOTEWIZARD.COM, LLC,

Respondent.

Misc. Action No. ____

Arising from Civil Action No. 1:19-cv-12235-LTS, pending in the United States District Court for the District of Massachusetts

**DECLARATION OF TOM MARTINDALE IN SUPPORT OF DRIPS HOLDINGS,
LLC’S MOTION TO QUASH SUBPOENA**

I, Tom Martindale, declare as follows:

1. I am over the age of eighteen and have personal knowledge of all facts set forth in this Declaration. If called as a witness, I could competently testify to such facts under oath.

2. I have reviewed the subpoena propounded by QuoteWizard, LLC (“QuoteWizard”) in connection with *Mantha v. QuoteWizard, LLC*, Civil Action No. 1:19-cv-12235-LTS, pending in the United States District Court for the District of Massachusetts (the “Subpoena”). I make this declaration in support of Drips’ Motion to Quash the Subpoena.

3. At all relevant times, I have been Partner and Chief Strategy Officer of Drips Holdings, LLC (“Drips”). I make this Declaration based on my own personal knowledge obtained through the course of my employment at Drips. To the extent reflected in this Declaration, I am familiar with Drips’ business activities, its electronic record-keeping practices and policies, as well as the processes and procedures involved in reviewing its electronic records.

4. This declaration contains confidential, proprietary information about Drips' platform, coding, and processes

5. Drips is an Akron, Ohio-based company incorporated in Delaware that offers its customers a software platform that runs voice, SMS, and email outreach campaigns on behalf of its customers. Ohio is the only state in which Drips maintains a physical presence.

6. QuoteWizard is a distinct company. It is not affiliated with Drips.

7. In October 2016, QuoteWizard engaged Drips to perform text-messaging services. QuoteWizard does not possess, control, or otherwise have legal access to Drips' documents, including the documents requested in the Subpoena.

8. Drips operates an outreach platform that can be used by clients to contact their customers. QuoteWizard and Drips entered into an agreement whereby Drips would allow QuoteWizard to use its platform to deliver certain messages to consumers who opted in to receive those messages.

9. As part of this relationship, Drips would notify QuoteWizard in real time whenever a consumer responded in a manner that suggested they may not want future messages. Drips "tiered" those responses for QuoteWizard—indicating by an alphanumeric data element the degree of certainty Drips' algorithm had that the consumer wanted calls to cease. For instance a clear statement of "do not call" would receive on tier score, whereas a less clear statement—such as "who is this"—would receive a different tier score.

10. QuoteWizard was free to do with the tiering as it saw fit, although Drips would simultaneously assure that consumers who very clearly requested messages "stop" would receive no further messages.

11. Drips would not, however, provide to QuoteWizard the actual underlying response from the consumer. This records have never been within the possession or control of QuoteWizard.

12. As a general business practice, Drips keeps its records, including the texts of the messages sent, on cloud-based active servers for 60 days. During this time, the records are readily accessible.

13. However, records more than 60 days old are significantly more difficult to access. There is limited space in Drips active servers, so after 60 days, the information on these active servers is moved to cold storage servers in a data warehouse. Because of the volume of data Drips' stores and the fact that Drips is always innovating and restructuring its system, the amount of data Drips stores is significant and not easily searchable.

14. Because the data responsive to the Subpoena is broad-ranging and spread into database resources in a non-indexed manner, Drips would need to devote hundreds (if not thousands) of developer hours to search the database for key data elements that might relate back to the QuoteWizard campaigns. However the data is stored chronologically—i.e., all Drips campaigns on a given day for *all* of its customers are written back to the archives on a regular periodic basis. Data elements linking calls to specific campaigns are simply not widely available so Drips would need to fall back not only on the phone numbers as the primary data element, but also figure out what direct message resulted in an opt out based on timelines, in order to locate records. (That is, it would need to search its database using unique code written for the purpose and specific to each phone number that was identified in the “do not call” records provided by QuoteWizard earlier in the case). Upon receipt of the Subpoena, Drips' Chief Technology Officer spent approximately 5 hours assessing how the requested records would be identified, extracted, and produced. The process would entail four principle phases—

each of which consist of multiple steps—described in detail below. The phases are: i) setup of a secure workspace and allocation of resources; ii) extraction of pertinent phone list from databases in manner needed to perform reporting; iii) identification of each pertinent OptOut Message; and iv) conducting a manual audit of the identified records for quality control. As explained below, the process required to respond to the Subpoena will take perhaps hundreds of thousands of hours and years of processing time.

15. The overall goal would be to create a process that would allow Drips to extract and validate which messages resulted in opt outs for a single company—QuoteWizard—back to the first day we started working with them. Given that Drips has many customers—many of which may have their own customers that have the same phone number as those used by customers of QuoteWizard—and given that Drips has made many iterations over the years of its systems, and that Drips archives messages and calls chronologically, *en masse*, and not by client or campaign number, Drips must go through multiple steps in order to correctly and securely achieve the desired output.

16. At the outset, it is important to note that these time estimates are based on full uninterrupted development by each developer, which is almost never the case. No single developer gets a solid 8-10 hours of coding a day due to the tug and pull of business operations and other mission-critical tasks and assignments. Drips' developer team is lean and mighty—but it is dedicated to the tasks of daily operation. Losing even one player on this critical team will have an impact—perhaps a severe one—on Drips operations and its ability to meet its contractual obligations to its customers.

Phase 1: Setup of secure workspace and allocation of resources

17. The first phase of the extraction process would be to create a secure virtual environment in which the critical work will be performed. Given that this is a unique process

which will aggregate a large volume of data within a single server environment—and given that Drips cannot risk damaging the performance of its production servers—Drips would start by setting up a secure system that could hold all the information, yet allow developers to still develop against existing resources. This would involve creating both a staging and secondary production environments, since developers would not have access to Drips’ primary production resources.

18. Drips sole database administrator (“DBA”) would need to be assigned to the task full time. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20. [REDACTED]

[REDACTED] Drips estimates that developer time spent on this phase of the project would run approximately 50 hours, including 40 hours of time from Drips’ only specialized DBA, and a full day of time (8-10 hours) from a qualified system architect along with associated time from developers. Required server

resources will cost \$2,010.00 per month beginning at this phase and will continue through the conclusion of production—a project that is likely to take months, as explained below.

Phase 2: Extract original list of phones

21. The next step is entry into the database to extract lists of phone numbers subject to the specific DNCs. Given this is a new process for a unique situation, Drips would need to set up a new repository in its source control so that Drips can store source code for use throughout its database work. [REDACTED]

[REDACTED]

22. [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
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23. [REDACTED]
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24. [REDACTED]
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25. [REDACTED]

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26. [REDACTED]

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[REDACTED]

[REDACTED]

27. [REDACTED]

[REDACTED]

[REDACTED]

28. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

29. The work involved in these steps is expected to consumer 280 hours of time.

[REDACTED]

30. Since data can sit all over the place, the next step in the process is to aggregate all the data for a single opt out into a “History” and try to figure out which records generated which opt out. That is—establishing logic to link the data received from consumers to the underlying opt out record. This is the process that will take the most time and involves intrusion into Drips’ live data warehouse-- which has limited connections and requires extraordinary care to avoid disruptions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

-
- | Gender | Percentage |
|--------|------------|
| Male | 65% |
| Female | 33% |
| Other | 2% |

Service	Percentage
Online banking	95%
Mobile banking	85%
ATM services	75%
Branch services	65%
Other services	55%

33.

34.

35.

36.

In short, **processing time** to identify the pertinent records will likely take between 700 hours (at 1 minute per record) and 3,500 hours (at five minutes a record.) This is in addition to the personnel time needed to perform these tasks that will take another ~150 hours.

[REDACTED] In addition, server resources for this piece run \$1,102 / month.

Phase 4: manual audit of the identified records

37. At this point Drips should have all records that can be identified. That being said, Drips is concerned about accidentally producing incorrect information pulled from consumer records that may include PII. Because of this, Drips would need to perform auditing on the data before it exports. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] While it is extremely hard to estimate how long it will take to audit, Drips estimates it would take approximately 100 hours to properly stage and conduct the audit. This includes 50 hours to develop the audit records process, and 50 hours to deploy it. Again work by a system architect would be required at this stage.

38. In total the project would require 585 hours of time by Drips' development team and between 700-3,500 hours of processing time to complete.

39. It is essential for the court to understand that Drips is not a large organization with teams of idle developers at its disposal. Its entire technical team is only six people. All of these personnel are currently fully staffed on mission-critical tasks and assignments. Drips is a lean machine and it is simply a fact that if Drips needs to dedicate the hundreds of hours required to produce records responsive to the Subpoena it simply will not have the manpower necessary to maintain its contractual obligations to its client base and assure a steady and reliable communications platform to the numerous companies that rely on it. This will be highly

disruptive to its business and may cause it to lose clients and—in a worst case scenario—may result in the company having to shut down altogether.

40. It is also important to note that even with above, there are times Drips receives an opt out multiple ways, and we only have access to the first time the opt out came in or the last time. It is possible that the end client could send us an opt out record, that Drips then receives one itself directly from the customer, and then the client sends another one to Drips.

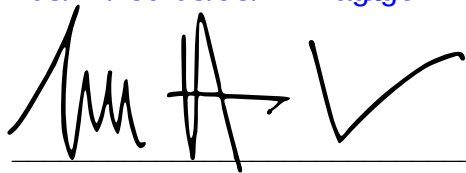
41. There are other instances where it may be impossible to figure out the opt out. For example:

- a. We have also evolved our model over time, so even with a custom worker to try to manually “figure out” the correct message, we still may not be able to as the model is different today than when it was implemented.
- b. It is also possible that the opt out was generated by a human reading the conversation, and in that case, there was nothing stored to link these opt outs together. In other words, even deploying the methodology deployed above it will simply not be possible to provide a 100% accurate response to the subpoena.

42. It is very hard to estimate how long it would take to achieve the end result, and even on top of developers resources, the amount of time to pull these records while also ensuring there no mistakes is likely to take weeks of processing.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed on March 12, 2021.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a checkmark-like flourish.

Tom Martindale